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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/879,098	06/13/2001	Mayumi Tomikawa	826.1729	3219

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EXAMINER

KNOWLIN, THJUAN P

ART UNIT	PAPER NUMBER
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2642

DATE MAILED: 03/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/879,098

Applicant(s)

TOMIKAWA ET AL.

Examiner

Thjuan P Knowlin

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections – 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Naudus (US 6,412,006).
2. In regards to claims 1, 4, 6, 7, 9, 10, 13, 14, 15, 16, 17, and 19, Naudus discloses a distribution route generation apparatus and method, comprising: a collection device collecting information about a communication cost between a plurality of nodes (network nodes 12, 14, and 16) of a communication network (Fig. 1, Fig. 3A, Fig. 3B, and col. 6 lines 16-28); a generation device automatically generating distribution route information, which indicates a plurality of distribution routes to a plurality of clients on the communications network from a source, based on the information about the communications cost when streaming data are originated and distributed from the source to the plurality of clients; and an output device outputting the distribution route information (col. 8 lines 5-28 and col. 10 lines 23-39).

3. In regards to claims 2, 3, and 18, Naudus discloses the distribution route generation apparatus, wherein said generation device generates the distribution route information by selecting a receiver node in such a way that a communications cost between the source and the receiver node is minimized (col. 5-6 lines 50-6 and col. 6 lines 16-28).

4. In regards to claim 5, Naudus discloses the distribution route generation apparatus, wherein said generation device divides the nodes into the groups using a branch in which a communications cost between nodes is equal to or more than a threshold value, as a boundary (col. 1 lines 22-36 and col. 8 lines 15-35).

5. In regards to claim 8, Naudus discloses the distribution route generation apparatus, wherein said restriction device detects a router located within a first restricted number of hops from a measuring node performing measurement, based on information about a route from the source to the measuring node and designates a node located within a second restricted number of hops from the detected router as a measurement target (col. 1 lines 38-47, col. 5 lines 42-49, col. 6 lines 16-28, col. 8 lines 23-28, and col. 8 lines 50-58).


6. In regards to claims 11 and 12, Naudus discloses the distribution route generation apparatus, wherein said generation device further generates distribution route information indicating a substitute distribution route, excluding a part in which a failure is anticipated to occur on the communications network (col. 6 lines 1-28).

### ***Conclusion***

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7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Jensen et al (US 6,067,572) teach an extrinsically influenced near-optimal path apparatus and method. Jensen et al (US 5,870,564) teach a near-optimal path apparatus and method.
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thjuan P Knowlin whose telephone number is (703) 308-1727. The examiner can normally be reached on Mon-Fri 8:00-4:30pm.
9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar can be reached on (703)305-4731. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.
10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Thjuan P. Knowlin  
March 19, 2004

  
**AHMAD F. MATAR**  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2700